

ORDINANCE NO. 2679

AN ORDINANCE related to land use and zoning, declaring an emergency, and adopting a moratorium on the establishment, location, operation, maintenance or continuation of marijuana retail sales facilities, processing facilities, manufacturing facilities, and growing facilities asserted to be authorized or actually authorized under Washington Initiative Measure No. 502, or proposed Washington Administrative Code Chapter 314-55, or any other laws of the state of Washington; and providing for an immediate effective date

WHEREAS, Washington Initiative Measure No. 502, herein after "I-502," approved by the voters of Washington State on November 6, 2012, provides for private recreational marijuana use by persons over 21 years of age, subject to state licensing and regulation of marijuana production, processing and retail sales facilities and requires the Washington State Liquor Control Board, herein after "LCB," to adopt procedures and criteria by December 1, 2013 for issuing licenses to produce, process and sell marijuana provided they are located at least 1000 feet from the nearest schools, playgrounds, day care facilities, arcades, public parks, public libraries, recreational centers, and transit centers; and

WHEREAS, pursuant to I-502, on September 4, 2013, the LCB issued revised proposed administrative rules under WAC 314-55, and established the maximum number of retail licenses that may be issued for Washington cities and counties, including a maximum total of 1 retail licenses within the City of Camas; and

WHEREAS, further pursuant to I-502, WAC 314-55 is scheduled to be finalized October 16, 2013 and become effective on November 16, 2013 with applications for marijuana production, processing and retail facilities accepted by the LCB beginning November 18, 2013; and

WHEREAS, marijuana uses and activities authorized under I-502 remain expressly prohibited by federal law, although under a guidance memo issued to U.S. Attorneys on August 29, 2013, the U.S. Department of Justice indicated they will not challenge the legality of I-502 if the state law and regulations promulgated there under meet certain specified federal concerns; and

WHEREAS, previously in a letter dated January 17, 2012, the U.S. Department of Justice, Drug Enforcement Agency, provided that anyone who knowingly carries out the medical marijuana activities contemplated in Washington, as well as anyone who facilitates such activities could be subject to criminal prosecution; and

WHEREAS, proposed guidance for implementing 1-502 under WAC 314-55-020(11) states: "The issuance or approval of a license shall not be construed as a license for, or an approval of, any violations of local rules or ordinances, including, but not limited to: Building and fire codes, zoning ordinances, and business licensing requirements;" and

WHEREAS, the Camas City Council acknowledges the will of voters in passing I-502, but also recognizes that marijuana production, processing and retail sales still remain illegal under federal law, and state rules for administering 1-502 are not finalized; and

WHEREAS, additional time is needed to review and determine the local implications of state rules once finalized, to assess impacts and potential liabilities under federal law, and to determine an appropriate regulatory framework under these laws; and

WHEREAS, the City must ensure that any proposed locations for these operations are appropriate and that potential secondary impacts are minimized and mitigated; and

WHEREAS, the City intends to permit for additional community outreach, work sessions, and public hearings, relating to the development of regulations for marijuana production, processing, manufacture, and retail sales facilities; and

WHEREAS, the City Council deems it to be in the public interest to establish a zoning moratorium on marijuana retail facilities, marijuana growing facilities, marijuana manufacturing facilities, and marijuana processing facilities; and

WHEREAS, pursuant to RCW 36.70A.390 and RCW 35 63.200, the City is authorized to enact a moratorium without holding a public hearing, provided that a public hearing must be held within 60 days of the passage of this ordinance; and

WHEREAS, while the City Council determines that a moratorium is necessary for reasons stated herein, the Council understands the desires of those wishing to move forward with implementing 1-502. Nevertheless, given the complex and evolving legal and regulatory framework surrounding the production and retail sale of marijuana, these measures are necessary until the Council can adequately and appropriately address the issues described herein; and

WHEREAS, pursuant to WAC 197-11-880, the adoption of this ordinance is exempt from the requirements of a threshold determination under the State Environmental Policy Act ("SEPA"); and

WHEREAS, the City Council finds that the regulatory requirements established by this ordinance are necessary for the immediate preservation of the public peace, health and safety and for the immediate support of city government and its existing public institutions,

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF CAMAS:

Section 1. The City Council adopts the foregoing recital clauses herein as findings in support of the adoption of the moratorium provided by this ordinance.

Section 2. Pursuant to the provisions of RCW 36.70A.390 and RCW 35.63.200, a zoning moratorium is hereby enacted prohibiting until April 14, 2014 within the City of Camas, the application for and the licensing, establishment, location, operation, maintenance or continuation of any marijuana retail sales use, growing use, manufacturing use, or processing use or facility pursuant to Washington Initiative Measure No. 502, WAC 314-55 or other state law.

Section 3. Public hearing. Pursuant to RCW 36.70A.390 and RCW 35.63,200, the City Council shall hold a public hearing no later than December 16, 2013, on the adopted moratorium established by this ordinance.

Section 4. Severability. If any clause, sentence, paragraph, section, or part of this ordinance or the application thereof to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not effect or invalidate the remainder or any parts thereof to any person or circumstances and to this end, the provisions of each clause, sentence, paragraph, section or part of this law are hereby declared to be severable.

Section 5. Effective date and notice. The City Council hereby finds and declares that an emergency exists which necessitates that this ordinance become effective immediately in order to preserve the public health, safety and welfare. This ordinance shall become effective immediately upon passage. The City Clerk is directed to publish a summary thereof, including the title, at the earliest possible publication date.

PASSED BY the Council and APPROVED by the Mayor this 4th day of November, 2013.


SIGNED: _____

Mayor

ATTEST: _____

Clerk

APPROVED as to form:



City Attorney